

**RULES  
OF  
DEPARTMENT OF REVENUE  
INCOME TAX DIVISION**

**CHAPTER 560-7-8  
RETURNS AND COLLECTIONS**

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**560-7-8-.48 Clean Energy Property and Wood Residuals Tax Credits.**

**560-7-8-.48 Clean Energy Property and Wood Residuals Tax Credits.**

(1) **Purpose.** This regulation provides guidance concerning the implementation and administration of the tax credits under O.C.G.A. § 48-7-29.14.

(2) **Coordination of Agencies.** The Georgia Environmental Facilities Authority and the Department of Revenue have been designated as the primary agencies responsible within Georgia to administer the program. Additionally, the Georgia Forestry Commission is the state agency responsible for certifying the dollar amount of wood residuals transported or diverted to a renewable biomass qualified facility. The Office of Insurance and Safety Fire Commissioner is the state agency that administers the gross premium tax.

(3) **Tax Credits for the Construction, Purchase, or Lease of Clean Energy Property.** The tax credit under O.C.G.A. § 48-7-29.14(b)(1) is a tax credit against Georgia income tax, or if the taxpayer is an insurance company, against Georgia premium tax. It

shall be granted to a taxpayer for the construction, purchase, or lease of clean energy property that is placed into service in this state between July 1, 2008 and December 31, 2012.

(a) Confirmation. Prior to submitting an application for approval to claim the clean energy property tax credit (Form IT-CEP-AP), the taxpayer must complete a pre-application through the Georgia Environmental Facilities Authority. After completing this form, the taxpayer will receive a confirmation. Such confirmation must be attached to Form IT-CEP-AP.

(b) Credit limitations. The amount of the clean energy property tax credit granted to a taxpayer shall not exceed:

1. For all types of clean energy property placed into service for any purpose other than single family residential, the credit allowed may not exceed the lesser of 35 percent of the cost of the clean energy property described in O.C.G.A. § 48-7-29.14(a)(3)(A) through O.C.G.A. § 48-7-29.14(a)(3)(C), or the following credit amounts for any clean energy property:

(i) For solar energy equipment for solar electric (photovoltaic), other solar thermal electric applications, and active space heating as described in O.C.G.A. § 48-7-29.14(a)(3)(A) the credit amount shall not exceed \$500,000.00 per installation;

(ii) For clean energy property related to solar energy equipment for domestic water heating as described in O.C.G.A. § 48-7-29.14(a)(3)(A), which is certified for performance by the Solar Rating Certification Corporation, Florida Solar Energy Center, or by a comparable entity approved by the Georgia Environmental Facilities Authority to have met the certification of Solar Rating

Certification Corporation OG-100 or Florida Solar Energy Center-GO-80 for solar thermal collectors, the credit amount shall not exceed \$100,000.00 per installation;

(iii) For Energy Star certified geothermal heat pump systems as described in O.C.G.A. § 48-7-29.14(a)(3)(B), the credit amount shall not exceed \$100,000.00;

(iv) For a lighting retrofit project as described in O.C.G.A. § 48-7-29.14(a)(3)(C)(i), the credit amount shall not exceed \$0.60 per square foot of the building with a maximum credit amount of \$100,000; and

(v) For an energy efficient building as described in O.C.G.A. § 48-7-29.14(a)(3)(C)(ii), the credit amount for all energy efficient products installed during construction shall not exceed \$1.80 per square foot of the building, with a maximum credit amount of \$100,000.00.

(I) Example of credit limit in subparagraph 3(b)1.(iv) of this regulation. Taxpayer installs a lighting retrofit project described in O.C.G.A. § 48-7-29.14(a)(3)(C)(i) into a 1,500 square foot building. The lighting retrofit project costs \$1,000. Since 35% of the cost of the lighting retrofit project (equals \$350) is less than \$.60 per square foot of the building (equals \$900), the taxpayer would request a credit amount of \$350 on Form IT-CEP-AP for preapproval.

(II) Example of the credit limit in subparagraph 3(b)1.(v) of this regulation. Taxpayer installs energy efficient products in an energy efficient building, which is 15,000 square feet, as described in O.C.G.A. § 48-7-29.14(a)(3)(C)(ii). The cost of all energy efficient products installed in the building is \$12,000. Since 35% of

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the cost of all energy efficient products (equals \$4,200) is less than \$1.80 per square foot of the building (equals \$27,000), the taxpayer would request a credit amount of \$4,200 on Form IT-CEP-AP for preapproval.

2. For wind equipment as described in O.C.G.A. § 48-7-29.14(a)(3)(D) the credit amount shall not exceed \$500,000.00 per installation.

(i) For biomass equipment as described in O.C.G.A. § 48-7-29.14(a)(3)(E) the credit amount shall not exceed \$500,000.00 per installation.

3. The following credit limits apply to clean energy property placed in service for single family residential purposes, the lesser of 35 percent of the cost or:

(i) For clean energy property related to solar energy equipment for domestic water heating as described in O.C.G.A. § 48-7-29.14(a)(3)(A), which is certified for performance by the Solar Rating Certification Corporation, Florida Solar Energy Center, or by a comparable entity approved by the Georgia Environmental Facilities Authority to have met the certification of Solar Rating Certification Corporation OG-100 or Florida Solar Energy Center-GO-80 for solar thermal collectors, Solar Rating Certification Corporation certification OG-300 or Florida Solar Energy Center-GP-5-80 for solar thermal residential systems, or both, the credit amount shall not exceed \$2,500.00 per dwelling unit;

(ii) For clean energy property related to solar energy equipment for solar electric (photovoltaic), other solar thermal electric applications, and active space heating as described in O.C.G.A. § 48-7-

29.14(a)(3)(A), the credit amount shall not exceed \$10,500.00 per dwelling unit; and

(iii) For Energy Star certified geothermal heat pump systems described in O.C.G.A. § 48-7-29.14(a)(3)(B), the credit amount shall not exceed \$2,000.00 per installation.

(c) Carry forward. Any unused credit in a taxable year may be carried forward for five years from the close of the taxable year in which the installment of the clean energy property occurred.

**(4) Tax Credit for Transporting or Diverting Wood Residuals.** The tax credit under O.C.G.A. § 48-7-29.14(b)(2) is a tax credit against Georgia income tax and shall be granted to a taxpayer who transports or diverts wood residuals to a renewable biomass qualified facility on or after July 1, 2008. The taxpayer eligible to claim this credit shall be the taxpayer that received certification from the Georgia Forestry Commission for transporting or diverting wood residuals.

(a) Certification. Prior to submitting an application for approval (Form IT-WR-AP) to claim the tax credit for transporting or diverting wood residuals, the taxpayer must receive certification, which attributes a dollar value to such transported or diverted wood residuals, from the Georgia Forestry Commission. Such certification must be attached to Form IT-WR-AP.

(b) Credit limitation. The amount of wood residual tax credit granted to a taxpayer shall not exceed the actual amount certified by the Georgia Forestry Commission to the taxpayer.

(c) Carry forward. Any unused credit for transporting or diverting wood residuals shall be allowed against succeeding years'

tax liability.

(5) **Credit Cap.** In no event shall the total amount of tax credits allowed under both O.C.G.A. § 48-7-29.14(b)(1) and (b)(2) exceed the following amounts:

- (a) For calendar year 2008, \$2,500,000;
- (b) For calendar year 2009, \$2,500,000;
- (c) For calendar year 2010, \$2,500,000;
- (d) For calendar year 2011, \$2,500,000; and
- (e) For calendar year 2012, \$2,500,000.

(6) **Denial of Credit.** In the event it is determined that the taxpayer has not met all the requirements of O.C.G.A. § 48-7-29.14 and this regulation, then the amount of the credits shall not be tentatively approved or the tentatively approved credits shall be retroactively denied. With respect to such denied credits, tax, interest, and penalties shall be due if the credits have already been claimed.

(7) **Claiming tax credits under O.C.G.A. § 48-7-29.14(b)(1) and (b)(2).** Any taxpayer seeking to claim tax credits under O.C.G.A. § 48-7-29.14(b)(1) or (b)(2) , must submit the appropriate forms to the Department of Revenue as provided in this paragraph.

(a) **Application.** A taxpayer seeking to claim tax credits under O.C.G.A. § 48-7-29.14(b)(1), whether utilizing the credit against income tax or premium tax, must submit Form IT-CEP-AP and a

confirmation from the Georgia Environmental Facilities Authority to the Commissioner for tentative approval.

1. A taxpayer seeking to claim tax credits under O.C.G.A. § 48-7-29.14(b)(2), must submit Form IT-WR-AP, and a certification from the Georgia Forestry Commission, to the Commissioner for tentative approval.

(b) Notification. The Department will notify each taxpayer of the tax credits, tentatively approved and allocated to such taxpayer, within sixty (60) days from the date the application was received.

(c) Allocation of tax credits. The Commissioner shall allow tax credits under O.C.G.A. § 48-7-29.14(b)(1) and (b)(2) on a first-come, first-served basis. The post mark date of Form IT-CEP-AP and Form IT-WR-AP shall be used to determine such first-come, first-served basis.

(d) Applications received on the day the maximum credit amount is reached. In the event that the credit amounts on applications received by the Commissioner exceed the maximum aggregate limits in paragraph (5) of this regulation, then the tax credits shall be allocated among the taxpayers whose applications were received by the Commissioner on the day the maximum aggregate limit was exceeded on a pro rata basis based upon amounts otherwise allowed under O.C.G.A. § 48-7-29.14 and this regulation. Only credit amounts on applications received on the day the maximum aggregate limits were exceeded will be allocated on a pro rata basis.

(e) Income or Premium tax. A taxpayer claiming income or premium tax credits under O.C.G.A. § 48-7-29.14(b)(1) must attach an approved Form IT-CEP-AP and Form IT-CEP to its Geor-

gia income or premium tax return for each tax year in which income or premium tax credits are claimed.

1. A taxpayer claiming income tax credits under O.C.G.A. § 48-7-29.14(b)(2) must attach an approved Form IT-WR-AP and Form IT-WR to its Georgia income tax return each year in which income tax credits are claimed.

(f) Withholding tax. A taxpayer may claim any excess tax credit from O.C.G.A. § 48-7-29.14(b)(1), the clean energy property tax credit, against its withholding tax liability. The withholding tax benefit may only be applied against the withholding tax account used by the taxpayer for payroll purposes.

1. Notice of Intent. To claim any excess tax credit not used on the income tax return against the taxpayer's withholding tax liability, the taxpayer must file Revenue Form IT-WH at least thirty (30) days prior to the due date of the Georgia income tax return (including extensions) or at least thirty (30) days prior to the filing of the income tax return, whichever occurs first. Failure to file this form as indicated will result in disallowance of the withholding tax benefit. However, in the case of a credit which is earned in more than one taxable year, the election to claim the withholding credit will be available for the credit earned in such subsequent year.

(i) If the taxpayer is an insurance company, to claim any excess tax credit not used on the premium tax return against the taxpayer's withholding tax liability, the taxpayer must file Revenue Form IT-WH-CEP with both the Department of Revenue and the Office of Insurance and Safety Fire Commissioner at least thirty (30) days prior to the due date of the Georgia premium tax return (including extensions) or at least thirty (30) days prior to the filing



of the premium tax return, whichever occurs first. Failure to file this form as indicated will result in disallowance of the withholding tax benefit. However, in the case of a credit which is earned in more than one taxable year, the election to claim the withholding credit will be available for the credit earned in such subsequent year.

2. Review Period. The Department of Revenue has ninety (90) days from the date the income tax return claiming the tax credit is received to review the credit and make a determination of the amount eligible to be used against withholding tax.

(i) The Department of Revenue has ninety (90) days from the date the premium tax return claiming the tax credit is received by the Office of Insurance and Safety Fire Commissioner to review the credit and make a determination of the amount eligible to be used against withholding tax.

3. Letter of Eligibility. Once the review is completed, a letter will be sent to the taxpayer stating the tax credit amount which may be applied against withholding and when the taxpayer may begin to claim the tax credit against withholding tax. The Department of Revenue shall treat this amount as a credit against future withholding tax payments and will not refund any previous withholding payments.

(8) **Pass-Through Entities.** When the taxpayer is a pass-through entity, and has no income tax liability of its own, the tax credits will pass to its members, shareholders, or partners based on the year ending profit/loss percentage. The credit forms will initially be filed with the tax return of the taxpayer to establish the amount of the credit available for pass through. The credit will then pass through to its shareholders, members, or partners to be

applied against the tax liability on their income tax returns. The shareholders, members, or partners may not claim any excess clean energy property tax credit against their withholding tax liabilities. The credits are available for use as a credit by the shareholders, members, or partners for their tax year in which the income tax year of the pass-through entity ends. For example: A partnership earns the credit for its tax year ending January 31, 2009. The partnership passes the credit to a calendar year partner. The credit is available for use by the partner beginning with the calendar 2009 tax year.

**(9) Annual Reports.** The Georgia Environmental Facilities Authority shall provide an annual report of a determination of associated energy and economic benefits to the state.

(a) The Department of Revenue shall provide an annual report consisting of:

1. The number of taxpayers that claimed the credits allowed under O.C.G.A. § 48-7-29.14;
2. The cost of business property and clean energy property with respect to which credits were claimed;
3. The location and type of clean energy property installed; and
4. The total amount of credits allowed.

**(10) Tracking and Reporting the Status and Availability of Credits.** By the end of the month following the end of each calendar year quarter, the Department of Revenue shall post on its web-

site the amount of credits preapproved through the end of such quarter, the amount preapproved year to date, and the amount of credits that are available to be claimed.

(11) **Effective Date.** The effective date for this regulation is July 1, 2008.

Authority O.C.G.A. §§ 48-2-12 and 48-7-29.14.